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10/538,152	06/08/2005	Marie-Catherine Fritsch	2002P18325WOUS	3257

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EXAMINER	
SINGH, HIRDEPAL	
ART UNIT	PAPER NUMBER
2611	
MAIL DATE	DELIVERY MODE
04/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/538,152	FRITSCH ET AL.	
	Examiner	Art Unit	
	HIRDEPAL SINGH	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *17 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13,17,19,23,26,29,31,33 and 34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13,17,19,23,26,29,31, 33 and 34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on January 17, 2008. Claims 13, 17, 19, 23, 26, 29, 31 and 33-34 are pending and have been considered below.

Response to Arguments

2. Applicant's arguments filed January 17, 2008 have been fully considered but they are not persuasive.

3. Applicant argues "...Burgess ...describe visual programming in which a programmer graphically configures the directed relationships. However, nothing prevents a reversal of the C-to-F and F- to-C calculator objects by the visual programmer, which would produce incorrect relationships... In one embodiment, the components are selected from an extendible list of available components... The programmer then connects the components through their ports. The connections ...indicate that when the Fahrenheit scroll bar is changed... the new value is sent to the F to C calculator and the Fahrenheit display... Applicants' directed relationships are already contained in a description of each component, constraining the connections to a proper order by allowing fewer degrees of freedom in order to reduce the possibility of error... Applicants reduce freedom in order to reduce complexity in automation programming, because incorrect options are eliminated from consideration. Continuity of expert information and earlier know-how guides and limits the plant automation code developer...automation code is generated on the basis of existing descriptions of a plant structure...The above deficiency in Burgess is not satisfied by Sakurai or Elmqvist.

4. Examiner's respectfully traverses applicant's opinion as combination of the prior art of record show all the limitations claimed, Burgess discloses that the components are connected through their ports, directed relationship of the components are defined (column 3, lines 29-34, lines 54-57; column 4, lines 1-16); Sakurai discloses a system and method for automatically generating a control program/code for plants such as rolling plants, power plants, and chemical plants where a picture representative of the plant operation control specification entered for the generation of a program can be viewed on crt (column 4, lines 8-22) i.e. the drawing/picture contains the information about the plant operation specification, in other words the program or code is generated based on the control relevant information in the drawings that has the orderly specified operation in the plant. The specified operation in the drawing for code generation makes system less complex while avoiding the errors. so it is very clear that the code generation is based on the existing description or a plant as taught by Sakurai. Therefore, the rejection is upheld.

5. Applicant argues "...Kroeger provides a construction project and document management system-- not a system for generating manufacturing plant automation code. This is a very different field... Although it is surely useful to have a system to coordinate construction projects, such a system does not apply to the present invention.... Thus, Kroeger teaches away from the present invention and cannot be combined with Burgess to produce it.

6. Examiner respectfully traverses Applicant's opinion as according to the MPEP 2123 [R-5]

II. **NONPREFERRED AND ALTERNATIVE EMBODIMENTS CONSTITUTE PRIOR ART**

Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi,* 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994) (The invention was directed to an epoxy impregnated fiber-reinforced printed circuit material. The applied prior art reference taught a printed circuit material similar to that of the claims but impregnated with polyester-imide resin instead of epoxy. The reference, however, disclosed that epoxy was known for this use, but that epoxy impregnated circuit boards have "relatively acceptable dimensional stability" and "some degree of flexibility," but are inferior to circuit boards impregnated with polyester-imide resins. The court upheld the rejection concluding that applicant's argument that the reference teaches away from using epoxy was insufficient to overcome the rejection since "Gurley asserted no discovery beyond what was known in the art." 27 F.3d at 554, 31 USPQ2d at 1132.). Furthermore, "[t]he prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

"...The prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit , or otherwise discourage the solution claimed..." As in the present case Kroeger discloses a system and method for controlling a process where the directed relations between system components are defined as predecessor/successor relationships (paragraph 0112), Kroeger never criticized or discourage that the teaching can't be applied in a manufacturing or processing plant. Also in light of the requirements of Prima facie case of obviousness, it would have been obvious to try, to one of ordinary

skill in the art the teachings of Kroeger in the Burgess system for predecessor/successor relationships for a finite number of identified, predictable solutions with reasonable success; in this case to implement the predecessor/successor relationships in the manufacturing plant, one would have been motivated to define the relation between components of the system as predecessor/successor relationships in burgess system to get the proper order for the execution of the program based on the priority of the process.

7. Therefore, from the above discussion it is clear that the claimed limitations are not novel based on the cited reference, so the rejection to the claims is upheld.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 13, 17, 19, 23, 26, 29, 31 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burgess (US 5,805,896), in view of Sakurai et al. (US 6,334,076), in view of Kroeger (US 2002/0165723) and further in view of Elmqvist ("A Uniform Architecture for distributed automation", Advances in Instrumentation and Control, Instrument Society of America, Research Triangle Park, NC US, Vol. 46, Part 2, 1991; Pages, 1599-1608).

Regarding Claims 13 and 26:

Burgess discloses a system and method for producing software/code using links of the components of the system (summary of the invention) comprising:

sending messages between the components through the ports and the data is being transferred between the components (column 2, lines 23-30), therefore it is inherent that the message transfer is taking place as signals through the ports;

the event objects include message information describing the message i.e. information about information, and the derived class provides behavior specific to a type of message i.e. message is the information and type of message is metainformation i.e. information about information (column 2, lines 23-40), also the system components are sending and receiving the temperature data and also converting from one scale to another i.e. Fahrenheit to Centigrade and vice versa (figures 4-7; column 3, lines 20-58), in this case the temperature data is the information and the information whether the temperature scale in Fahrenheit or Centigrade is metainformation i.e. information about information;

producing a program code by interconnecting the signals based on the directed connections of the components (column 4, lines 35-50; producing a class is referred to as a program code).

Burgess discloses all of the subject matter as described above and further discloses that the components have input and output ports, represented by corresponding symbols/functional blocks/modules (column 1, lines 45-64; column 2, lines65-67; column 3, lines 1-19) and; the components are connected through their ports, directed relationship of the components are defined (column 3, lines 29-34, lines

54-57; column 4, lines 1-16), but doesn't specifically teach that (1) the code generation is for a manufacturing and/or processing plants, and the automation code is generated on the basis of a structure of the plant and know how previously input into the description; (2) the components are described in drawing comprising control relevant information in the manufacturing and/or processing plant; (3) the control information described in the drawing is based on the material flow in the manufacturing and/or processing plant; and (4) the system components are defined to have predecessor/successor relationships.

Regarding item (1) above, Examiner notes that this is just an intended use, therefore little if any patentable weight is given.

Sakurai in the same field of endeavor discloses a similar system and method for automatically generating a control program/code for plants such as rolling plants, power plants, and chemical plants (abstract, technical field); and the automation code is generated on the basis of a structure of the plant and know how previously input into the description (figure 10; column 10, lines 60-67); regarding item (2) above, Sakurai discloses that the components of the system are represented by functional modules in form of drawings or pictures or graphics based on the control relevant information i.e. operation procedure, and the system is controlled by modifying the drawings or graphics or pictures of the described component modules (column 2, lines 20-51) where a picture representative of the plant operation control specification entered for the generation of a program can be viewed on crt (column 4, lines 8-22).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the disclosed system for code generation in Burgess in a manufacturing and/or processing plant to generate automation code for controlling a manufacturing and/or process plant to allow a person with little programming knowledge to generate the code, and to make system capable of checking and modifying the function of automatically generated code.

Regarding item (3) above, Elmqvist discloses a similar system and method for distributed automation with a graphical programming environment for programming/software generation by graphically connecting the predefined modules (abstract, page 1599; paragraph 4, page 1600), and further discloses that the control information in drawing or graphic is based on the physical objects present in the processing or manufacturing plant as pumps, pump stations, robots, roller tables etc. (paragraph; Object and data flow based language, page 1600). This is inherent that the physical objects of the plant form the path for material or fluid flow as shown in the example of tank system (figures 1-5) i.e. the system is controlling the process based on the material or fluid flow through the tanks, PID (process identifier) controllers, valves, and pumps (Tank system, page 1601).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use a drawing or picture or graphic having control relevant information based on material flow in a plant for code generation in Burgess in order to combine the graphically represented components i.e. a drawing based on material flow

in a plant of Elmqvist for code generation to help make use of the standard designing tools.

Regarding item (4) above, Kroeger in the same field of endeavor discloses a system and method for controlling a process where the directed relations between system components are defined as predecessor/successor relationships (paragraph 0112).

Therefore, it would have been obvious to try, to one of ordinary skill in the art the teachings of Kroeger in the Burgess system for predecessor/successor relationships for a finite number of identified, predictable solutions with reasonable success i.e. to implement the predecessor/successor relationships in the manufacturing plant to define the relation between components of the system as predecessor/successor relationships in burgess system in order to get the proper order for the execution of the program based on the priority of the process.

Regarding Claims 17 and 29:

Burgess discloses all of the subject matter as described above and further discloses an input device/means for inputting relevant information for producing software code (column 14, lines12-18; fig 9).

Regarding Claim 19:

Burgess discloses all of the subject matter as described above except for specifically teaching that the method for distributed automation with graphical connection represents information flow, and a data flow model.

Elmqvist in the same field of endeavor discloses that the method for distributed automation with graphical connection represent information flow, and a data flow model (page 1601, paragraph 4; page 1605, paragraph 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material flow, and/or energy flow, and/or information flow as a basis for mapping the directed relationships between the components in Burgess system in order to use the material flow, and/or energy flow, and/or information flow as a basis for mapping the directed relationships between the components to make the automation code more effective and error free as the manufacturing and/or processing plant layout and planning is according to the material flow, and/or energy flow, and/or information flow.

Regarding Claims 23 and 31:

Burgess discloses all of the subject matter as described above except for specifically teaching that the system and method is for distributed automation with automated cooperation for distributed objects; and the system could be a central system.

Elmqvist in the same field of endeavor discloses that the system and method is for distributed automation with automated cooperation for distributed objects (page 1599, abstract paragraph 2; page 1605, paragraph 5). However, official notice is taken that it is old and well known within the computer art that if automated code generation is used for distributed system then it could be used for central system too.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the disclosed system in Burgess for central and/or distributed solutions to use the disclosed system for central and/or distributed solutions to control the distributed components with a central controller or to control the components with a central controller as required.

Regarding Claim 33:

Burgess discloses a system and method for producing software/code using links of the components of the system (summary of the invention) comprising:

the components of the system have input and output ports for data or message communication (column 1, lines 45-64; column 2, lines65-67; column 3, lines 1-19);

the components are connected through their ports for communicating or sending/receiving messages i.e. a communication network between the components of the system, and a controller i.e. a class object controls the communication of messages between the components (column 4, lines 1-50) and the components are connected through their ports, directed relationship of the components are defined (column 3, lines 29-34, lines 54-57; column 4, lines 1-16);

the components have input and output ports, represented by corresponding symbols/functional blocks/modules (column 1, lines 45-64; column 2, lines65-67; column 3, lines 1-19), and the components are connected through their ports, direction of the connection is indicated between input and output ports (column 3, lines 29-34, lines 54-57; column 4, lines 1-16);

producing a program code for the processing or manufacturing plant based on the control information flow and the directed connections of the components (column 4, lines 35-50; producing a class is referred to as a program code).

Burgess discloses all of the subject matter as described above except for specifically teaching that (1) the code generation is for a manufacturing and/or processing plants; (2) the described components of the plant comprising function module and the function module being a reusable software object that defines characteristics and functions of the elements of the plant; (3) the relationships between system components are defined as predecessor/successor; and (4) the components are described in drawing comprising control relevant information based on material flow in the manufacturing and/or processing plant.

Regarding item (1) above, Examiner notes that this is just an intended use, therefore little if any patentable weight is given.

Sakurai in the same field of endeavor discloses a similar system and method for automatically generating a control program/code for plants such as rolling plants, power plants, and chemical plants (abstract, technical field); and the automation code is generated on the basis of a structure of the plant and know how previously input into the description (figure 10; column 10, lines 60-67);

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the disclosed system for code generation in Burgess in a manufacturing and/or processing plant to generate automation code for controlling a manufacturing and/or process plant to allow a person with no programming

knowledge to generate the code, and to make system capable of checking and modifying the function of automatically generated code.

Regarding item (2) above, Sakurai discloses a similar system and method for automatically generating a control program/code for plants such as rolling plants, power plants, and chemical plants as above, and further discloses that the components of the system are represented by functional modules, and the function modules are reusable or the combination of modules is selected according to the operation and procedure of the plant (column 2, lines 20-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the function module of the components of plant with connections for communication, as reusable software object for code generation in Burgess to combine the function module as reusable software code, defining functions and characteristics of elements of the plant for code generation to help make use of the standard designing tools.

Regarding item (3) above, Kroeger in the same field of endeavor discloses a system and method for controlling a process where the directed relations between system components are defined as predecessor/successor relationships (paragraph 0112).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to define the relation between components of the system as predecessor/successor relationships in Burgess system in order to get the proper order for the execution of the program based on the priority of the process.

Regarding item (4) above, Sakurai discloses that the components of the system are represented by functional modules in form of drawings or pictures or graphics based on the control relevant information i.e. operation procedure, and the system is controlled by modifying the drawings or graphics or pictures of the described component modules (column 2, lines 20-51). Furthermore, Elmqvist discloses a similar system and method for distributed automation with a graphical programming environment for software generation by graphically connecting the predefined modules (abstract, page 1599; paragraph 4, page 1600), and further discloses that the control information in drawing or graphic is based on the physical objects present in the processing or manufacturing plant as pumps, pump stations, robots, roller tables etc. (paragraph; Object and data flow based language, page 1600). This is inherent that the physical objects of the plant form the path for material or fluid flow as shown in the example of tank system (figures 1-5) i.e. the system is controlling the process based on the material or fluid flow through the tanks, PID (process identifier) controllers, valves, and pumps (Tank system, page 1601).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a drawing or picture or graphic having control relevant information based on material flow in a plant for code generation in Burgess to combine the graphically represented components i.e. a drawing based on material flow in a plant of Elmqvist for code generation to help make use of the standard designing tools.

Regarding Claim 34:

Burgess discloses all of the subject matter as described above except for specifically teaching that the control system comprises different zones with subsets of plant elements.

Elmqvist in the same field of endeavor discloses that the control system comprises different zones with subsets of plant elements i.e. the tank system with tank 1, PID 1 is a control zone with PID, valve as subset of elements of system, and PID controller work as the control coordinator as shown in the topology of the network of the system (figures 1-3; pages 1602-1603).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the software code generation of Burgess in a system with different control zones with plant elements including controllers. One would have been motivated to implement the generated code in a system with different control zones including plant elements and controllers to make all different components of system work in coordination for optimum results and control.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIRDEPAL SINGH whose telephone number is (571)270-1688. The examiner can normally be reached on Mon-Fri (Alternate Friday Off)8:00AM-5:00PMEST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shuwang Liu can be reached on 571-272-3036. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. S./
Examiner, Art Unit 2611
March 31, 2008
/Shuwang Liu/
Supervisory Patent Examiner, Art Unit 2611